Secrt. II-27—40,006—20-12-38.

Dev. (193 0) Department.

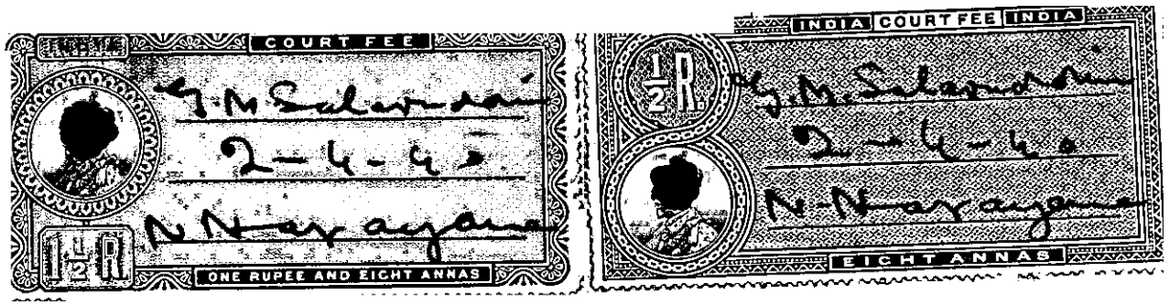
SERIES.

G.O. No. 1106

Dated 13-5-40.

[Despatch Abstract]

Mines - Bellary - Red Oxide of Iron - Mining - ~~Order~~ - Sri [illegible] Gurudas of Calcutta - petition - Order passed



The Second Advisor to His Excellency
the Governor of Madras, Fort St. George,
Madras.

Sub:- Mining ~~- red~~ Oxide of iron -Bellary District
Bellary taluk - Jamikunta village -S.No.326
Lease - Grant of - Appeal.

.....

Ref:- G.O.No.Ms 619 Development, dated 14th March 1940
14.3.March40 ...

(5)

Most honoured Sir,

The humble petition of S. S.Guzder No.226, Bow Bazaar, Calcutta most humbly and respectfully showeth

That the petitioner is doing mining business for the last 30 years and has sent his authorised agent G.M.Salaruddin of Calcutta to Madras presidency for attending to his mining business in that province.

That under instructions from the petitioner, this agent Mr.Salaruddin applied for and obtained a certificate of approval for red oxide of iron, ~~as mines lay back as 19~~ which he has been regularly renewing every year.

That at the cost of enormous sums of money, time and energy the said agent has examined and prospected for red oxide of iron various areas of land and after protracted examination of the deposits of mineral and testing and analysing them in laboratories, which too cost a good amount of money, the conclusion was arrived at that the deposits in S.No.326 of Jamikunta village in Bellary taluk of Bellary District was suitable for our purpose .

That the petitioner finally decided that the above said S.No should be taken by him on a mining lease for a period of 30 years.

That towards that purpose he presented on the noon of 23-6-36 to the Collector of Bellary an application for mining lease, in the form prescribed in Appendix VI in Chapter VIII of the ~~Madras Mining Manual~~

That from the register maintained in the Bellary Collector's Office, as prescribed in Rule 67 of the ~~mining~~ mining rules it is seen that no application had been made to the Collector on or prior to 23-6-36 for a prospecting license in the above said S.No of ~~Janikunta~~ Janikunta village.

That from the register maintained in the Bellary Collector's Office, as prescribed in rule No.43 of the mining rules it is seen that no application had been made to the Collector for a mining lease in respect of the above said S.No. of Janikunta village, on or prior to 23.6.36.

That in his letter No.A.1. 1-36 dated 7.7.36 the Collector of Bellary instructed the applicant to deposit a sum of Rs.500/- as security which was done by the applicant on 24.7.36.

That he was also ordered by the Collector to deposit a sum of Rs.60/- for demarcating, surveying and mapping the plot of land decided to be leased out to him, which survey was undertaken between 5-10-36 and 20-10-36 by a Government survey-party at the cost of the applicant.

That subsequently the applicant was called upon to deposit a sum of Rs.50/- as solicitor's fee for scrutinising the deed of mining lease to be granted to the applicant and a further sum of Rs.25/- towards printing the lease deed, all which demands the applicant met with atmost expedition.

That the grant of the lease applied for

That the granrt of the lease applid for by the petitioner was sanctioned by the Boarc of revenue in its proceedings No.7 dated 3.1.38 and that orders were finally issued in Bellary Collector's No.Ref.M.L.A 1/38 dated 6.6.38 to the effect that the Board of Revenue in its proceedings No.1519 dated 30.5.38 had apporoved the draft mining lease.

That when every thing was almost complete when the petitioner had spent enormous sums of money in discovering the existance and suitability of the red oxide ores in S.No. 32b of Jantakunta village of Bellary taluk of Bellary District, when he had applied for a lease on the said land, when nobody else ever thought of such an enterprise at all, when he had complied with all the requirements of the mining rules as directed from time to time by the Collector of Bellary, when finally the grant of the lease was sanctioned by the Board of Revenue and the draft mining lease approved and printed, the petitioner's rights were cancelled in Bellary District Collector's Ref.No.D.Dis.2745 of 38 dated 19.12.38 and the grant of the lease was stayed pending further orders.

That subsequently a prospecting license was granted by the Collector to Sri V.Rangiah Chetty of Tadpatri, over the same S.No which the petitioner decided to take on a mining lease. Even if Sri V.Rangiah Chetty wanted to take the land on a mining lease he had no right, because the petitioner did all the prospecting work and was the first to apply for the lease. The reason for granting a prospecting license is only to give an opportunity to a person to find out the suitability of the land for mining operations and

and if it was found suitable, for taking it on a lease. It looks inexplicable to the applicant how a prospecting license came to be granted to Sri V.Rangiah Chetty in preference to the applicant who had done all the prospecting work and whose application for a mining lease had originally been accepted by the Board of Revenue as the prior applicant and consequentl been ordered the grant of the lease.

That this order was quite partial, unjust and against all principles laid down in the mining rules and this order has caused great hardship and financial losses to the applicant.

And that the petitioner sent an appeal to Government dated 24.8.39 which has now been rejected without assigning any reasons.

In this connection the petitioner begs to point out that according to rule 55 of the mining rules, which contemplates and provides for the contingency when more than one application either for a mining lease, prospedring license or both are made in respect of the same site of land, the Government are competent to grant the lease only to the applicant with whom the priority of right lies and a special power is reserved under this rule in virtue of which the Government can grant, in its discretion, a prospecting license instead of a mining lease only to the party who had applied for the lease if the priority of right lies with him.

The petitioner therefore most respectfully and humbly begs your honour to look into this matter which is of great importance to the petitioner as he has spent enormous amounts of money in his attempts to discover the mineral deposit, and then to take the land on a lease. He also begs that the lease of the land now most unjustly given to Sri V.Rangiah Chetty for prospecting be granted to the petitioner on a mining lease as applied by him to the Collector of Bellary as early as 23.6.36

The petitioner hopes that justice will be done to him.

I beg to remain,
Most honoured Sir,
Your most obedient and humble servant

G. M. Salauddin
2-4-40
Agent of S.S.Guzdar.

Station Cuddapah
Date. 2.4.1940

Sectt. II-16 (a)—31,006—20-12-39.

No. 1016 D

Received ..... 193 . *Registered* 193

Abstract.

Mines - Bellary - Red Oxide of iron - Mining lease - Sri S.S.Guzdar of Calcutta - Appeal - Orders passed.

DEVELOPMENT DEPARTMENT.

G.O. No. Ms. 619, dated 14th March ~~19xx~~ 1940.

READ again the following paper:—

ENCLOSURES.

No.

G.O. No. 2371 Development, dated 16-11-1938.

Read also the following papers:-

From Salaruddin, Agent of Sri Guzdar, No. Nil, dated 24-8-1939.

To the Board of Revenue, Endorsement No.24241 II/39-1,dated 9-9-1939.

From the -do- No. I.4373/39-3, dated 26-1-1940.

O R D E R:-

The appeal is rejected.

(By Order of His Excellency the Governor)

C.P.Karunakara Menon,
Secretary to Government.

To the Board of Revenue.

" G. M. Salaruddin, Agent of Sri S.S.Guzdar of Calcutta, Gandla Street, Cuddapah (with encl.)

(True Copy)
F o r w a r d e d.
(By Order)

Superintendent.

G.V.K.

Rev. Dept.

Sub: Mining – Red oxide of iron – Bellary District – Bellary taluk Tanikunta village – S. No. 326 – Lease – appeal from G. M Salaruddin, ~~Bellary~~, vakkalpa d 2.4.40.

U.S.

In G.O. No. 2871 Rev. d 16.11.38, the Board of Revenue was instructed to grant a prospecting licence to Sri Venkadari Pedda Rangasami Chetty of Tadpatri, Anantapur Dt., for searching for red oxide of iron in S. No. 326 of Tanikunta village, Bellary taluk.

G. M. Salaruddin, agent to Sri Guzdar of Calcutta appealed against the order, and it was rejected in G.O. 619 Rev. d 14.3.1940. He has again appealed to Govt. requesting them to revise their orders in rejecting his first appeal. The arguments advanced by him are the following:

(1). The appellant was the first to apply for a mining lease in respect of the S. No. under question, and has therefore the priority of right.

It is seen from Board's report at pp 6-8 of Go 2871 Rev. d 16.11.38 that the Board considered that the first applicant was Sri Guzdar of Calcutta. But the Govt. ~~ordered the revision~~ revised the orders of the Board in

pp 1-2 of (5) ✓
✓ (5)
0 C.F.

(A) on p 4 C.F.

virtue of the discretion vested in them under the note to Rule 42 in Chapter VI of the Madras Mining Manual.

(2) The appellant states that he originally applied directly for a mining lease over S. No. 326 of Tanikunta village in Bellary Taluk of Bellary district. after having done prospecting work in the area and finding the ores suitable for working and that to other applicant, Sri Rangasami Chetti applied only for a prospecting licence, and not a mining lease, and Govt. ordered the grant of a licence to him. The appellant now contends that under rule 5-5 of the mining rules, the Govt. have power only to grant a prospecting licence to the person who originally applied for a lease, if the priority of right lies with him.

On this contention, G. M. ~~Bozdar of~~ Salarruddin of Cuddapah, agent to Sri Guzdar of Calcutta requests that the orders issued in G.O. 619 Dev. d 14.3.40 should be revised and that he should be given a lease for mining for red oxide.

Rule 55 of the mining rules states that when both an application for a prospecting licence and an ~~min~~ application for a mining lease are presented in respect of the same area, the applicant for a mining

p'n 82-83 of 1st Madras Mining Manual not published in this form!)

lease not being in possession of a prospecting licence in respect of that area, the prior right to the concession, whether licence or lease, shall subject to any order which the local Govt. may pass in any particular case, be deemed to lie with the first applicant who, being the holder of a valid certificate of approval and after compliance with the procedure prescribed by the rules, shall have been the first to file his application with the Collector. This rule also provides that if the prior right to the Concession is held to lie with an applicant for a lease, the local Govt. may, in its discretion, grant him a licence instead.

rule 50 at (Z) no 2871 Rev 16 11 38.

The appellant Sri Sugdar, has satisfied the conditions contemplated in rule 55 of the Mining Rules. It was accepted by the Govt. that he was the first applicant. But the orders in G.O. 2871 Rev. d 16. 11. 1938 were passed in virtue of the discretionary powers vested in the Govt. under the note to Rule 42 in Chapter VI of the Madras Mining Manual, and on the grounds that Sri Rangasami Chetti was a local man, appearing to possess the requisite mining experience. Whil Sri Sugdar of Calcutta wholeld several mining Concessions in the Cuddapah Dt. was penalised by the Board of Revenue for failure to work

concessions satisfactorily.

The appellants' contention is that under rule 55 (A) of the Mining Rules, Govt. can grant, in its discretion prospecting licence instead of a mining lease only to the party who had applied for the lease if the priority of right lies with him. This does not seem to be correct as under the note to Rule 42 of the Mining Rules Govt. seem to have full discretion to grant the concession to whomsoever they consider to be fit to hold the concession.

The file may however be sent to the Legal Dept for advice whether the appellants' contention is tenable.

(1) on p4 C.F.

(A) pp 82-83 of the Manual not put up (Pt No 43 in Cons'n)

p7 s (ibid).

JDS 3/4. 14.4.40

Contention (i) at page 1 ante is in substance the same that was addressed by G.O. the petn and disposed of in G.O. 619/14.3.40. No further action is necessary on this.

Contention (ii) at page 2 ante is new. The petn seems to think that under rule (55), the Local Govt. have no powers to override the order of preference, and have discretion only to grant a prospecting licence, instead of a lease, though the application might have been for the former. This Contention is not

correct, as Rule (55) also is subject to any order which the Local Govt may pass in any particular case It is this discretion that seems to have been exercised by the Local Govt in this case, in granting a prospecting licence to the petitioner This contention also therefore fails

Legal may see for remarks.

B 27/4

DS

27/4/40

In no. 10161 II/40-1
29.4.40

KVR 29/4

Legal.

Legal Dept.

The view expressed on contention (ii) in the note of U.S., Devt., in his note above may be concurred in by this department.

K. VR
1/5/40.

Rao
2/5/40

Legal 3203-1
3/5/40

DW

Dev. Dept.

U.S.

ASSISTANT SECRETARY TO GOVERNMENT
1 MAY 1940

The Legal Dept. have agreed that Sri Guzdar's contention that under under Rule (55) of the Mining Rules, the Local Govt. have no powers to override the order

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S NP
Encl. 10161 II/40.
U.S.
DD.

of preference, and have discretion only to grant a prospecting licence instead of a lease, is not correct

A draft order is submitted for approval.

The petition has been stamped with court fee stamps to the value of Rs 2/- & the petition need not be stamped the value of the stamps less two annas has to be refunded under para 6 (3) (ii) of B S.O 172. A certificate and advice for payment are also put up.

BR
10/5

(2W)

Das 8.9.
8/5 · 8.5.40.

CM S
11/5/40

(4)

31/12.5

G.F.16.

DRAFT FOR APPROVAL.

Development Deptt.

	Date.	Initials.
When received for fair copying		
When copied		
When examined		
When signed		
When despatched.		

SUBJECT:— Mines - Bellary - Red Oxide of iron - Mining - lease - Sri S. S. Guzdar of Calcutta - ~~Appeal~~ petition. Orders passed.

READ AGAIN G.O. Nr. 619 Dev., dated 14 - 3 - 1940. (5)

" " _____ " _____ 19____.

READ *ALSO*:—

No. 10161 II/40 From ~~the~~ G. M. Salarudolin, Agent to Sri S.S. Guzdar, ~~No.~~ _____, dated 2.4.1940.

" _____ " _____ " _____ " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

Order / ~~Resolution~~ Ms. / ~~Rout.~~ No. 1106, dated 13.5.1940.

His Excellency the Governor sees no reason to revise the orders passed in G.O Nr. 619 Dev. d. 14.3.1940.

JAS 8.5.40 8.5.40.

(5)

G. M. Salarrudolin, ✓

Agent to Sri S.S. Guzdar of Calcutta,

Gandla Sheet,

Cuddapah

(with a certificate)

Copy to the Board of Rev ✓

(with copy of petition)

1/R 10/5

O.T.O

Cm 11.5.40

Dpd. by _____ with encl

Dpd. 15.5.40

193

Dev. Dept.

Govt of Madras.

Certificate.

I hereby certify that court fee stamps to the value of Rs 2/- (Rupees two only) have been unnecessarily affixed to the appeal dated 2.4.1940 and that G. M. Salaruddin. Gandla Street. Cuddapah is therefore entitled to receive back the sum of Rs 1/14 (Rupee one and annas fourteen only) within ninety days from the date of this certificate from the treasury at Cuddapah.

PR
10/5

Dev. Dept. } Under Secretary to Govt
Dated }

DAS 8/5/40. DO. 8.5.40.

C.T.D

Dev. Dept.

Govt. of Madras.

Advice

To the Treasury Officer,

Cuddapah.

A certificate has this day been issued to the following individual for the refund of the value of excess court fees stamps affixed to his appeal.

Town.	Street.	Name of party.	Date of appeal.	The value of court fee stamps affixed.	Amount to be refunded.	Remarks.
Cuddapah.	Ganolla Street	G. M. Sabbaraddi.	2-4-40.	Rupees two only.	1-14-0. Rupee one and annas fourteen only.	

P R

Dev. Dept.
Dated

Under Secy to Govt.
3.
13.

Das 80
8/5/40. 8-5 MS.